

AG Contract No. KR98 1932TRN  
ADOT ECS File JPA 98-147  
Project No. TEA-LHV-0(2)P  
TRACS No. SL414 01C  
Section: Bicycle/Pedestrian Path on Pima Wash

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF LAKE HAVASU CITY**

THIS AGREEMENT is entered into 19 March, 1999,  
pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended,  
between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF  
TRANSPORTATION (the "State") and the CITY OF LAKE HAVASU CITY, acting by and  
through its MAYOR and CITY COUNCIL (the "City").

**I. RECITALS**

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-334 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. Congress has authorized appropriations for, but not limited to, the construction of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; the application of pavement markings, as such work as is contemplated herein.

4. Such project within the boundary of the City has been selected by the City; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted by the State to the Federal Highway Administration (FHWA) for its approval.

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended.

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NO. 23048  
Filed with the Secretary of State  
Date Filed: 03/19/99

Petrey Bayless  
Secretary of State

By Dick V. Greenwood

6. The City, in order to obtain federal funds for the construction of the project, is willing to provide the State with the City funds to match federal funds in the ratio required or as finally fixed and determined by FHWA.

7. The work embraced in this agreement and the estimated cost are as follows:  
Construct Pima Wash Bicycle/Pedestrian Path.

Estimated Project Cost (includes 15% CE Cost)	\$ 510,450.00
Federal Aid Funds @ 80%	\$ 408,360.00
Additional Federal Funds (Roadside Development Sect.)	\$ 25,000.00
City of Lake Havasu City Funds @ 20%	\$ 102,090.00
Additional Lake Havasu City Funds	\$ 178,334.00
Five percent (5%) Surcharge	\$ 25,522.00
Total Lake Havasu City Funds	\$ 305,946.00*

\* This includes a 5% surcharge on the total cost as per Local Government Engineer memo of April 4, 1994.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

## II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the State with the aid and consent of FHWA and the City will proceed to advertise for, receive and open bids, and subject to the concurrence of FHWA and the City, award the contract, enter into a contract with a firm to whom the award is made for the construction of the project, such project to be performed, completed, accepted and paid for in accordance with the requirements of the Standard Specifications for Road and Bridge Construction of the Highways Division, Arizona Department of Transportation. Further, the State will enter into a Project Agreement with FHWA covering the work embraced in said construction contract and will request the maximum federal funds available.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the State shall not be obligated to incur any expenditure in excess of the amount of the City's deposit unless and until so authorized in writing by the City.

2. Prior to the solicitation of bids, the City shall deposit funds with the State in the amount determined by the State to be necessary to match federal funds in the ratio required. Upon completion of the construction contract, the State shall return to the City any part of the funds deposited by the City remaining after City's pro rata share of the cost, as finally fixed and determined by FHWA, has been paid.

3. The City shall acquire, without cost to the State, the necessary right-of-way and hereby certifies that all necessary rights-of-way have been acquired.

4. The City shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been or will be removed therefrom.

### III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The City assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost overruns and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance, nonperformance or negligent performance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation and attorneys' fees.

2. The cost of the design, construction and construction engineering work covered by this agreement is to be borne by FHWA and the City, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, the City agrees to furnish and provide State with City funds in an amount equal to the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work herein embraced; provided, however, that any provisions in this agreement for maintenance shall be perpetual.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement shall be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this agreement.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation  
Joint Project Administration  
205 S. 17th Avenue - 616E  
Phoenix, AZ 85007

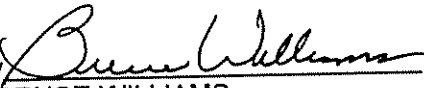
City of Lake Havasu City  
City Manager  
1795 Civic Center Blvd.  
Lake Havasu City, AZ 86403

9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.


**CITY OF LAKE HAVASU CITY**

**STATE OF ARIZONA**  
Department of Transportation

By   
BRUCE WILLIAMS  
City Manager

By   
PETER L. ENO  
Contract Administrator

ATTEST:

By   
ANN R. SAYNE  
City Clerk

RESOLUTION NO. 99- 1392

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF LAKE HAVASU CITY,  
MOHAVE COUNTY, ARIZONA, APPROVING AN INTERGOVERNMENTAL  
AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION  
IN REGARD TO THE ACQUISITION OF FEDERAL FUNDS TO USE AND  
BENEFIT OF THE CITY FOR THE PIMA WASH BICYCLE/PEDESTRIAN PATH

WHEREAS, the Arizona Department of Transportation has agreed to acquire federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended, and

WHEREAS, LAKE HAVASU CITY has agreed to the terms of accepting funds as acquired by the Arizona Department of Transportation (ADOT) for the improvements known as the Pima Wash Bicycle/Pedestrian Path

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council hereby approve this intergovernmental agreement for the intent and purpose stated above, and authorize the City Manager to execute said agreement

PASSED AND ADOPTED by the Mayor and City Council of Lake Havasu City, Arizona, this 23rd day of February 1999

APPROVED: Melanie Grinstead-Hanak  
Melanie Grinstead-Hanak, Mayor

ATTEST.

Ann R. Sayne  
Ann R. Sayne, City Clerk

APPROVED AS TO FORM  
LAKE HAVASU CITY ATTORNEY'S OFFICE:

BY: Lawrence Gouge

REVIEWED BY

Kevin P. Murphy  
Kevin P. Murphy, Public Works Director  
For

EXHIBIT A

APPROVAL OF THE CITY ATTORNEY

I hereby state that I have reviewed the proposed Intergovernmental Agreement between State of Arizona, ARIZONA DEPARTMENT OF TRANSPORTATION, and LAKE HAVASU CITY, and declare the Agreement to be in proper form and within the powers and authority granted under the laws of the State of Arizona.

DATED this 3rd day of FEBRUARY, 1999.

LAKE HAVASU CITY  
OFFICE OF THE CITY ATTORNEY

BY: 

Jonny A. Sutton, Assistant City Attorney

REF: LHC Project No. ST-213-97, Pima Wash Bicycle/Pedestrian Path  
ADOT ECS File JPA 98-147; Project No. TEA-LHV-0(2)P; TRACS No. SL414 01C



GRANT WOODS  
ATTORNEY GENERAL

STATE OF ARIZONA  
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TELECOPIER : 542-4085

**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR98-1932TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATE March 10, 1999.

GRANT WOODS  
Attorney General

JAMES R. REDPATH  
Assistant Attorney General  
Transportation Section

JRR:et/19674

Enc.